

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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DELILAH NIEVES,

Plaintiff,

- against -

BOARD OF EDUCATION, et al.,

Defendants.  
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**ORDER**

CV 06-0603 (CBA) (JO)

**JAMES ORENSTEIN, Magistrate Judge:**

On November 3, 2006, I ordered the defendants to complete the production of certain discovery by November 30, 2006. Docket Entry ("DE") 45. At 1:28 p.m. on the latter date, the plaintiff filed a letter motion seeking an order to compel compliance with that order. DE 49.

The motion was filed before the time in which the defendants had an opportunity to comply had elapsed, and – in violation of Rule III.A.1 of my individual practice rules – made no mention of any attempt by the plaintiff's counsel to confer with opposing counsel and resolve the matter prior to seeking my intervention.

At 12:45 a.m. on December 1, 2006, counsel for the defendants filed a letter enclosing a stipulation and proposed protective order. DE 50. In the letter, counsel noted that the document production I directed in my order of November 3, 2006, was delivered by hand at 5:30 p.m. on November 30, 2006. Such production was timely.

In the future, I expect counsel to confer with each other before engaging in motion practice in a good-faith attempt to narrow or resolve their differences. I also expect counsel to comply with applicable rules, including not only my individual practice rules – compliance with

which would have obviated the need for the instant motion – but also Local Civil Rule 26.5, which requires cooperation among counsel in discovery matters.

The plaintiff's motion for an order to compel production is denied as moot, and I hereby endorse the proposed protective order submitted by the defendants.

**SO ORDERED.**

Dated: Brooklyn, New York  
December 1, 2006

/s/ James Orenstein  
JAMES ORENSTEIN  
U.S. Magistrate Judge